

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Jean Paul Lozada	Team: Squad #2	CCRB Case #: 201809769	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Saturday, 09/01/2018 11:00 PM	Location of Incident: § 87(2)(b)	Precinct: 69	18 Mo. SOL 3/1/2020	EO SOL 3/1/2020	
Date/Time CV Reported Fri, 11/23/2018 1:06 PM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Fri, 11/23/2018 1:06 PM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Witness(es)	Home Address
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. POM Felix Medina	06560	939008	069 PCT
2. POM Jonathan Taveras	30195	953469	069 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. SGT Kevin Devine	00509	925191	INT CIS
2. POM Ryan Courten	03855	948818	069 PCT
3. POM Travis Young	27025	953594	069 PCT
4. POM Raymond Wong	27044	965623	069 PCT
5. POM Michael Cadena	14879	956470	069 PCT
6. CPT Terrell Anderson	00000	933551	069 PCT
7. POF Ioana Matiuta	11291	956897	069 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Felix Medina	Abuse: Police Officer Felix Medina entered § 87(2)(b) in Brooklyn.	§ 87(2)(b)
B.POM Felix Medina	Abuse: Police Officer Felix Medina searched § 87(2)(b) in Brooklyn.	§ 87(2)(b)
C.POM Jonathan Taveras	Abuse: Police Officer Jonathan Taveras questioned § 87(2)(b)	§ 87(2)(b)
D.POM Jonathan Taveras	Abuse: Police Officer Jonathan Taveras threatened to arrest § 87(2)(b)	§ 87(2)(b)
E.POM Jonathan Taveras	Abuse: Police Officer Jonathan Taveras threatened to notify Administration for Children's Services.	§ 87(2)(b)
F.POM Jonathan Taveras	Abuse: Police Officer Jonathan Taveras threatened to damage § 87(2)(b)'s property.	§ 87(2)(b)
G.POM Jonathan Taveras	Abuse: Police Officer Jonathan Taveras searched the vehicle in which § 87(2)(b) was an occupant.	§ 87(2)(b)

## Case Summary

On November 23, 2018, § 87(2)(b) filed this complaint with the CCRB via telephone.

On September 1, 2018, at approximately 11:00 p.m., Police Officer Felix Medina of the 69<sup>th</sup> Precinct and officers from the 69<sup>th</sup> Precinct, ESU, and the Intelligence Bureau Criminal Intelligence Section forcibly entered and searched the home of § 87(2)(b) at § 87(2)(b) in Brooklyn (**Allegation A – Abuse of Authority: Entry of Premises; Allegation B – Abuse of Authority: Search of Premises;** § 87(2)(g) The father of § 87(2)(b)'s children, § 87(2)(b) was arrested for § 87(2)(b) and he was removed from the apartment (Board Review 13). Police Officer Jonathan Taveras of the 69<sup>th</sup> Precinct allegedly asked § 87(2)(b) where the gun was, and he allegedly told § 87(2)(b) that he would take her to jail and refer her children to ACS unless she told him where the weapon was (**Allegation C – Abuse of Authority: Question; Allegation D – Abuse of Authority: Threat of Arrest; Allegation E – Abuse of Authority: Threat to Notify ACS;** § 87(2)(g) Police Officer Taveras also allegedly told § 87(2)(b) to take him to § 87(2)(b)'s car or he would "make the car look just like your house" (**Allegation F – Abuse of Authority: Threat to Damage Property,** § 87(2)(g) § 87(2)(b) brought Police Officer Taveras to the car she shares with § 87(2)(b) and he searched the car and found no additional contraband (**Allegation G – Abuse of Authority: Vehicle Search,** § 87(2)(g) § 87(2)(b) was not arrested or summonsed.

Body-worn camera (BWC) footage was obtained from the BWCs of Police Officer Taveras (IA #95-96, Board Review 01-03), Police Officer Ryan Courten (IA #25, Board Review 04-05), Police Officer Michael Cadena (IA #28, Board Review 06-07), Police Officer Travis Young (IA #26, Board Review 08-09), and Police Officer Raymond Wong (IA #27, Board Review 10-11), each of the 69<sup>th</sup> Precinct.

## Findings and Recommendations

**Allegation (A) Abuse of Authority: Police Officer Felix Medina entered** § 87(2)(b) **in Brooklyn.**

**Allegation (B) Abuse of Authority: Police Officer Felix Medina searched** § 87(2)(b) **in Brooklyn.**

§ 87(2)(b) was interviewed on November 29, 2018. Sergeant Kevin Devine of Intelligence Criminal Investigations Section was interviewed on February 8, 2019. Police Officer Medina was interviewed on March 12, 2019. Police Officer Taveras was interviewed on April 23, 2019, and a follow-up interview was conducted on July 10, 2019.

The investigation has determined that the officers' entry into and search of § 87(2)(b) in Brooklyn on September 1, 2018 was conducted in accordance with valid Kings County search warrant number § 87(2)(b) (Board Review 12). The search warrant lists Police Officer Medina as the officer who applied for the warrant. § 87(2)(b) was the target of the search warrant,

the officers were tasked were searching for “a firearm; cellular phones and computers which may contain evidence of possession of firearms; ammunition; and documents concerning ownership and recent occupation of the location” inside § 87(2)(b) § 87(2)(g)

**Allegation (C) Abuse of Authority: Police Officer Jonathan Taveras questioned § 87(2)(b)**

**Allegation (D) Abuse of Authority: Police Officer Jonathan Taveras threatened to arrest § 87(2)(b)**

**Allegation (E) Abuse of Authority: Police Officer Jonathan Taveras threatened to notify Administration for Children’s Services.**

§ 87(2)(b) alleged that while she and her children, § 87(2)(b) -year-old § 87(2)(b) and § 87(2)(b) -year-old § 87(2)(b) were in their bedroom, Police Officer Taveras repeatedly asked her where a gun was located inside her apartment, and § 87(2)(b) insisted that there was no gun in the apartment. Police Officer Taveras allegedly told § 87(2)(b) that she would be taken to jail and her children would be referred to the Administration for Children’s Services (ACS) unless she told the officers where the weapon was. § 87(2)(b) repeated that she was unaware of a gun being in her apartment. § 87(2)(b) had no knowledge of any referral to ACS ultimately being made for her children.

Police Officer Taveras did not recall whether he asked § 87(2)(b) if he knew where a gun was located. He denied having any conversation with § 87(2)(b) about ACS, and he denied telling her that he would take her to jail if she did not say where the weapon was. None of the other officers interviewed recalled hearing Police Officer Taveras make any of these alleged statements.

Police Officer Taveras’ BWC footage (Board Review 01-03) begins inside § 87(2)(b) s apartment at 12:07 a.m. on September 2, 2018, one hour and seven minutes after § 87(2)(b) was placed under arrest (Board Review 13). It is unknown whether Police Officer Taveras’ BWC captures the entirety of his conversations with § 87(2)(b) inside the bedroom. His BWC footage does not capture any of these alleged statements made towards § 87(2)(b) None of the other officers’ BWC footage captures any conversation between § 87(2)(b) and Police Officer Taveras.

§ 87(2)(g)

**Allegation (F) Abuse of Authority: Police Officer Jonathan Taveras threatened to damage § 87(2)(b) s property.**

**Allegation (G) Abuse of Authority: Police Officer Jonathan Taveras searched the vehicle in which § 87(2)(b) was an occupant.**

§ 87(2)(b) stated that after she was moved to the living room and § 87(2)(b) was removed from the apartment, Police Officer Taveras found the keys to § 87(2)(b)'s car on a shelf in the living room and said he had to search the car. Police Officer Taveras allegedly told § 87(2)(b) "Either you can take me to the car, I'll allow you to watch me, or if you make it hard, I'm gonna go down and I'm gonna make the car look just like your house." At the time, § 87(2)(b)'s apartment was in disarray due to the officers' search (see Allegation B). § 87(2)(b) went downstairs with Police Officer Taveras and allowed him to search the car. No contraband was found in the car.

§ 87(2)(b) noted that § 87(2)(b) drives the car, that she does not have a driver's license, and that she, § 87(2)(b) and their children had returned from a road trip to the Poconos earlier that evening. § 87(2)(b) stated that the car, a blue Infiniti M45 sedan, is registered to § 87(2)(b)'s sister, § 87(2)(b). DMV records indicate that both § 87(2)(b) and § 87(2)(b) are associated with this vehicle (Board Review 14). § 87(2)(b) stated that § 87(2)(b) spends most weeknights at her apartment with their children and most weekends at his residence in Staten Island.

At the beginning of the subclip of Police Officer Taveras' BWC footage (IA #130, Board Review 21), Police Officer Taveras goes to the living room, removes his BWC, sets it down, and points it towards § 87(2)(b). Portions of the ensuing conversation are inaudible or unclear. Police Officer Taveras asks § 87(2)(b) about her car, and § 87(2)(b) says the car belongs to § 87(2)(b)'s sister. Police Officer Taveras then asks, "Do you give us permission to go into the car to make sure it's not inside the car?" Police Officer Taveras also says something about the key, but what he says is unclear. § 87(2)(b) says she does not have the key or know where it is. § 87(2)(b) then says, "If you can open it yourself, yeah." Police Officer Taveras then asks § 87(2)(b) where § 87(2)(b) usually leaves the keys, and § 87(2)(b) says, "It would be up there or on the table." At runtime 03:51, a male who is heard but not seen says, "So it's gonna be up to you. We can run outside with you real quick and check the car. You can come out here, play with your children, just hang out here, or you can come with us real quick." § 87(2)(b)'s response is not clear. At runtime 07:40, § 87(2)(b) leads Police Officer Taveras towards the elevators, and Police Officer Taveras says to her, "Again, we're not forcing you to do this, right? We're just telling you, like I said, we're just trying to get it out of the way." § 87(2)(b)'s response is unclear. Police Officer Taveras says, "I appreciate it," and § 87(2)(b) says, "Try not to break anything." Police Officer Taveras, Sergeant Devine, and § 87(2)(b) go to the car together, and Police Officer Taveras searches the car and finds no contraband.

Police Officer Taveras stated that he wished to search the car because § 87(2)(b) was the subject of the search warrant, which was for a gun, and bullets but no gun were found in § 87(2)(b)'s apartment. Police Officer Taveras did not know who drove the car on a regular basis. Upon reviewing his BWC footage, Police Officer Taveras stated that § 87(2)(b)'s statement that the car belonged to § 87(2)(b)'s sister did not impact his decision to search the car because § 87(2)(b) had given him permission to search the car. Police Officer Taveras stated that although the vehicle was registered to § 87(2)(b) both § 87(2)(b) and § 87(2)(b) were inside the vehicle earlier in the day when they returned a road trip to Pennsylvania with their children, before the execution of the search warrant. § 87(2)(b)

had physical possession of the vehicle's keys because they were inside her apartment, which was in her name. Police Officer Taveras therefore believed that "she, under the law of constructive possession, is in possession and dominion of that vehicle, because she has possession of the keys." Police Officer Taveras noted that § 87(2)(b) had the ability to get in the vehicle and drive it, regardless of whether she had a license, and that § 87(2)(b) "cannot just come [to § 87(2)(b)'s home] and take the key." Police Officer Taveras denied telling § 87(2)(b) that he would "make the car look just like the house" if she did not take him to the car, or otherwise coercing her into allowing him to search the car. He stated that he removed his BWC before requesting § 87(2)(b)'s consent to search the car because § 87(2)(b) had stated that she did not want her children on camera, and he thought she would be more comfortable if he did not wear it. (Both of the children are visible in this portion of the footage.)

People v. Gonzalez (88 N.Y.2d 289, 1996, Board Review 16), citing United States v. Matlock (415 U.S. 164, 1973, Board Review 16) states, "Law enforcement officials can establish a constitutionally valid search and seizure by 'show[ing] that permission to search was obtained from a third party who possessed common authority over or other sufficient relationship to the premises or effects sought to be inspected'. The Court construed 'common authority' not in any narrow property law sense, but 'rather on mutual use of the property by persons generally having joint access or control for most purposes, so that it is reasonable to recognize that any of [such persons] has the right to permit the inspection in his own right and that the others have assumed the risk that one of their number might permit the common area to be searched.'" Illinois v. Rodriguez (497 U.S. 177, 1990, Board Review 16), citing Terry v. Ohio (392 U.S. 1, 1968, Board Review 16), states, "Determination of consent to enter must 'be judged against an objective standard: would the facts available to the officer at the moment... warrant a man of reasonable caution in the belief' that that the consenting party had authority over the premises? Of not, then warrantless entry without further inquiry is unlawful unless authority actually exists. But if so, the search is valid."

In People v. Walton (144 A.D.2d 180, 1988, Board Review 16), officers responded to the home of the defendant's girlfriend, where an informant reported that stolen firearms were being sold. When an officer asked the defendant for consent to search a vehicle on the property, the defendant stated that the vehicle belonged to his girlfriend, but that he used it too. The defendant ultimately agreed to the search and gave the officers the key to the locked car. The officers searched the car, found the stolen firearms, and arrested the defendant. The County Court found that "the defendant's consent prior to his arrest supplied the necessary basis for the search." The Appellate Division affirmed the County Court's ruling, and the Court of Appeals denied the defendant's motion for an appeal.

§ 87(2)(g)  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

§ 87(2)(g)

### **Civilian and Officer CCRB Histories**

- § 87(2)(b) has been party to two other CCRB complaints and has been named as a victim in one other allegations (Board Review 17).
  - § 87(2)(b)
- Police Officer Felix Medina has been a member-of-service for 14 years and has been a subject in five other CCRB complaints involving ten allegations, none of which were substantiated. § 87(2)(g)
- Police Officer Jonathan Taveras has been a member-of-service for seven years and has been a subject in 14 other CCRB complaints involving 27 allegations, of which one was substantiated.
  - 201807315 involved a substantiated Discourtesy: Word allegation. The Board recommended command-level instructions, and the NYPD has not yet imposed discipline.
  - § 87(2)(g)

### **Mediation, Civil and Criminal Histories**

- Mediation was offered to § 87(2)(b) during her in-person interview at the CCRB on November 29, 2018, and she rejected mediation § 87(2)(b)

- As of May 30, 2019, the Office of the New York City Comptroller has no record of a Notice of Claim being filed in regards to this complaint (Board Review 18).

- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

---

Squad No.: 02

Investigator: \_\_\_\_\_  
Signature Print Title & Name Date

Squad Leader: \_\_\_\_\_  
Signature Print Title & Name Date

Reviewer: \_\_\_\_\_  
Signature Print Title & Name Date